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OCPF-IB-95-01

Issued: March 21, 1995

INTERPRETIVE BULLETIN

Implementation by Ballot Question Committees
of Chapters 43 and 292 of the Acts of 1994

The Office of Campaign and Political Finance (OCPF) periodically issues interpretive bulletins regarding various aspects of M.G.L. c. 55, the Massachusetts campaign finance law.¹ This bulletin is issued to highlight recent changes to the law mandated by Chapters 43 and 292 of the Acts of 1994 relating to political committees organized to support or oppose a question or questions submitted to the voters ("ballot question committees").

The legislature enacted major campaign finance legislation during 1994, see Chapters 43 and 292 of the Acts of 1994 ("the legislation"). The legislation made several substantial changes to the campaign finance law, M.G.L. c. 55, which affect ballot question committees.

In particular, the legislation added a definition for "ballot question committee," a term which had not been defined in the campaign finance law as previously drafted. The law now defines a "ballot question committee" as "a committee which receives or expends money or other things of value for the purpose of favoring or opposing the adoption or rejection of a specific question or questions submitted to the voters including, without limitation, a charter change, an initiative or referendum question or a constitutional amendment." See section 1 of c. 55, as amended.

¹ Other interpretive bulletins of interest to ballot question committees, which remain in effect, include IB-88-01, IB-90-02 and IB-91-01. Interpretive bulletin 88-01 relates to the applicability of the campaign finance law to organizations other than political committees. Interpretive bulletin 90-02 relates to the disclosure and reporting requirements of contributions and expenditures related to ballot questions. Interpretive bulletin 91-01 relates to the application of the campaign finance laws to the use of public resources in support of or in opposition to ballot questions.

The following is a summary of further changes, all of which were effective as of January 1, 1995, required by the legislation.

A. Contributions by ballot question committees to other committees.

The legislation added a new section 6B to chapter 55, which states, in part, that a ballot question committee "shall not contribute to any other political committee, except that it may contribute to another ballot question committee if such contribution is consistent with the purpose for which it was organized. . . A ballot question committee shall not receive, pay or expend money or other things of value for the purpose of influencing the nomination or election of a candidate or for the purpose of aiding or promoting or antagonizing the interest of any political party."

Ballot question committees can make expenditures or contribute to other ballot question committees only to the extent such expenditures or contributions are consistent with the purpose for which the committee was organized.

B. Contributions to ballot question committees.

The legislation specified that PACs, peoples committees, and political party committees may contribute up to \$500 to ballot question committees during a calendar year. See M.G.L. c. 55, s. 6, as amended. The legislation does not limit contributions from individuals.

Contributions from a candidate committee organized on behalf of a constitutional candidate to ballot question committees are prohibited. However, any other candidate committee may contribute to a ballot question committee.

Although contributions by non-constitutional candidate committees to ballot questions committees are not subject to a specific statutory limitation, such contributions must be made to enhance the candidate's political future. For example, a candidate committee may make a contribution to a ballot question committee if the candidate, on whose behalf the committee was organized, has sponsored legislation which becomes the subject of a ballot question and the candidate's campaign emphasizes the candidate's interest in bringing about change in the law in that area. See M.G.L. c. 55, s. 6.

Ballot question committees can receive contributions only if they are intended to be used to support or oppose the ballot question which the committee was organized to support or oppose.

C. Money orders.

The legislation amended section 9 of M.G.L. c. 55 to prohibit a candidate or political committee including a ballot question committee from accepting contributions of more than \$50.00 in a calendar year made by money order or other negotiable instrument (bank check, cashier's check, traveler's check). Contributions of more than \$50.00 must be made by

check on which the contributor is directly liable such as a personal check or, in connection with a ballot question, a corporate check.

D. Reporting periods.

The legislation changed the reporting date for all year-end campaign finance reports from January 10 to January 20. Such reports are now due on or before January 20. The legislation did not change any other reporting date. See M.G.L. c. 55, s. 18.

Ballot question committees must still file reports (1) on the day of organization; (2) on the 60th day prior to the election; (3) on or before the 5th and 20th day of each month complete as of the preceding 1st and 15th day of each month, until the election; and (4) on the 5th day of each month after the election until all declared liabilities of the committee have been discharged.

E. Penalties for late filing of reports.

The legislation mandated that OCPF assess a civil penalty for any report, statement, or affidavit which is filed late. Late filing of the periodic reports specified in M.G.L. c. 55, s. 18(f) will result in assessment of penalties. The amount of the penalty is set at \$10 per day, up to a maximum of \$2,500 for any report, statement, or affidavit which is filed late. Penalties must be personally assessed against the treasurer of the ballot question committee or other person or persons required to file the report, statement, or affidavit. See M.G.L. c. 55, s. 3.

F. Increased disclosure requirements.

The legislation requires additional disclosure by political committees. All political committees, including ballot question committees, must report the occupation and employer of contributors who contribute \$200 or more in a calendar year. See M.G.L. c. 55, s. 18.² To comply with this provision, committees must report the most accurate information available to the committee regarding both occupation and employer. If a contributor who contributes \$200 or more in a calendar year does not provide complete information regarding both occupation and employer in response to a committee's initial request, a committee must make an additional written request for additional information.

New section 5B of c. 55 prohibits all political committees, including ballot question committees, from using any name other than the name included in the committee's statement of organization filed with OCPF. In addition, all committees must use the full name appearing in the statement of

² The legislation did not change the requirement, described in sections 2 and 5 of c. 55, that treasurers of all political committees must maintain accurate records of all campaign finance activity.

organization, including the full words represented by any abbreviations, initials or acronyms in the name.

The name or phrase used to identify the committee must include (1) the economic or special interest, if identifiable, of a majority of contributors and (2) the identity of the common employer of a majority of contributors. If a special interest or common employer of a majority of contributors is not identifiable, the name or phrase must include any interest or common employer of a majority of the committee's organizers, and if the committee is organized, financed, controlled or maintained by an individual, that identifies that individual. See M.G.L. c. 55, s. 5B.

G. New forms.

The legislation required a revision of the forms used by OCPF. In particular, the Statement of Organization (Form CPF 101BQ) and the Campaign Finance Report (Form CPF 102BQ) have been revised. The Statement of Organization was revised to comply with the disclosure requirements specified above; the Campaign Finance Report was revised to reflect the elimination of the distinction between fundraising and general expenditures and the requirement that expenditures over \$50 must be disclosed, compared to prior law requiring such disclosure where expenditures were \$25 or more. Copies of the revised forms are available at OCPF.